UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VDF FUTURECEUTICALS, INC., Plaintiff, v. COFFEEBERRY CAFE & EATERY and RAMY S INC. Defendants.	Case No. 1:16-cv-09735 (WHP) **JURY TRIAL DEMANDED**

JOINT REPORT OF PARTIES' RULE 26(f) PLANNING MEETING

Pursuant to Federal Rule of Civil Procedure 26, Plaintiff VDF FutureCeuticals, Inc. ("FC") and Defendants, Coffeeberry Cafe & Eatery and RAMY S INC. (collectively, the "Cafe"), submit the following report of the conference held via telephone on February 23, 2017.

I. DISCOVERY PLAN

A. What changes should be made in the timing, form, or requirement for disclosures under Rule 26(a), including a statement of when initial disclosures were made or will be made

The parties will exchange the disclosures required by Rule 26(a) on the date indicated in the proposed schedule below.

B. The subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused on particular issues

The Parties propose the discovery deadlines and schedule indicated in the table below. The Parties presently contemplate that discovery will be needed on the following subjects:

- Defendants' selection and use of the COFFEEBERRY mark, including its promotion or marketing of goods and services under the mark.
- Plaintiff's selection and use of the COFEEBERRY mark, including its promotion or marketing of goods and services under the mark.

- Other trademarks used by Defendants or their principals and the decisions to use those marks
- Any actual consumer confusion regarding the use by Plaintiff and Defendants, respectively, of the COFFEEBERRY mark.
- Likelihood of confusion regarding Defendants' use of the COFFEEBERRY mark.
- Defendants' registration and use of the internet domains referenced in the complaints.

C. Any issues about disclosure, discovery, or preservation of electronically stored information, including the form or forms in which it should be produced

The parties will assess and attempt to agree on an appropriate production format at the time documents are requested and/or produced.

D. Any issues about claims of privilege or of protection as trial-preparation materials, including—if the parties agree on a procedure to assert these claims after production—whether to ask the court to include their agreement in an order under Federal Rule of Evidence 502

The Parties contemplate submitting an agreed protective order for entry by the Court that addresses the designation of confidential information as well as privilege issues.

E. What changes should be made in the limitations on discovery imposed under these rules or by local rule, and what other limitations should be imposed

None anticipated at this time.

F. Any other orders that the court should issue under Rule 26(c) or under Rule 16(b) and (c)

None anticipated at this time.

II. PROPOSED DISCOVERY SCHEDULE

Deadline	**Event**
March 10, 2017	26(f) conference report submitted to court
March 17, 2017	Initial disclosures exchanged
March 23, 2017	Initial status conference
June 1, 2017	Deadline to amend pleadings or join parties

September 15, 2017	Fact discovery closes
November 3, 2017	Affirmative expert reports due
December 20, 2017	Rebuttal expert reports due
January 31, 2018	Expert discovery complete

Date: March 10, 2017

COFFEEBERRY CAFE & EATERY and RAMY S INC.

By: /s/ Joseph P. Sacco

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